CCRB INVESTIGATIVE RECOMMENDATION

Investigator: John Hanley	Team: Squad #4	CCRB Case #: 201600170	☐ Force ☐ Discourt. ☐ U.S. ☑ Abuse ☐ O.L. ☐ Injury		

Incident Date(s) Tuesday, 01/05/2016 8:00 PM	Location of Incident: § 87(2)(b)		Precinct: 76	18 Mo. SOL 7/5/2017	EO SOL 7/5/2017
Date/Time CV Reported Tue, 01/05/2016 10:43 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Tue, 01/05/2016 10:43 PM		

Complainant/Victim	Type	Home Address
████	███	████████
████	███	████████

Subject Officer(s)	Shield	TaxID	Command
1. SGT Matthew Wesolowski	5228	945098	076 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Michael Kutny	07751	951892	076 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Matthew Wesolowski	Abuse: Sgt. Matthew Wesolowski entered §87(2)(b) ████████ in Brooklyn.	████████

Case Summary

On January 5, 2016 § 87(2)(b)   filed this complaint with the CCRB via the Call Processing System.

On January 5, 2016, Sgt. Matthew Wesolowski and PO Michael Kutny of the 76th Precinct were conducting a vertical patrol in a New York City Housing Authority building located at § 87(2)   in Brooklyn. At approximately 8:00 PM, they observed § 87(2)(b)   in the hallway of the § 87(2)   with an open container of Coors original beer. As her husband attempted to enter their apartment, Sgt. Wesolowski put his foot in the doorway to prevent § 87(2)(b)   from closing the door (**Allegation A**). He asked for identification from § 87(2)(b)   in order to issue her a summons for § 87(2)(b)   . § 87(2)(b)   ultimately provided Sgt. Wesolowski with her identification, Sgt. Wesolowski removed his foot from the door and issued her a summons for § 87/ § 87(2)(b)   and left.

§ 87(2)(g)

Video Footage

§ 87(2)(b)   recorded the incident on his cellphone and provided this to the CCRB (See Board Review, Video Footage). The cell phone video footage covers seventeen minutes and thirty eight seconds of the incident. Based on all accounts, § 87(2)(b)   began recording this incident within a minute or two of the beginning of the interaction at his door. The relevant clips of the incident are attached below in the analysis section.

Mediation, Civil and Criminal Histories

- Mediation was accepted and attempted in this case was sent to ADR on January 15, 2016. However the parties were unable to reach a resolution and the case was returned to investigation on April 5, 2016.
- No Notice of Claim has been filed with the NYC Comptroller's office as of May 12, 2016.
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civilian and Officer CCRB Histories

- This is § 87(2)(b)   and § 87(2)(b)   s first CCRB complaint.
- Sgt. Wesolowski has been a member of service for eight years. He has two previous CCRB cases with a total of two allegations against him. Both allegations were for force. One allegation was exonerated and one was closed as victim unavailable. § 87(2)(g)

Findings and Recommendations

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Allegation A -Sgt. Matthew Wesolowski entered § 87(2)(b) **in Brooklyn.**

It is undisputed by all accounts that § 87(2)(b) was in the § 87(2)(b) in Brooklyn with a can of Coors Original beer and Sgt. Wesolowski and PO Kutny observed her with it during their vertical patrol of the building. § 87(2)(b) went back into her apartment and closed the door behind her. Sgt. Wesolowski and PO Kutny interacted with her husband, § 87(2)(b) by the door. In attempting to issue a summons for § 87(2)(b) to § 87(2)(b) Sgt. Wesolowski placed his foot in the door way and refused to remove it until he received identification from § 87(2)(b) or had her step out of the apartment. § 87(2)(b) asked him multiple times to leave and for Sgt. Wesolowski to remove his foot from the door. Sgt. Wesolowski refused. § 87(2)(b) provided identification and a summons for § 87(2)(b) was issued.

§ 87(2)(b) provided a phone statement to the CCRB on April 15, 2016 (See Board Review, Civilian Statements). § 87(2)(b) stated that she and § 87(2)(b) were having a birthday party for their daughter. She went to the garbage compactor with loose garbage, including an empty can of beer. As it was full, she returned to her apartment. A few minutes later, she heard § 87(2)(b) knocking on the door. When she opened the door, § 87(2)(b) entered and Sgt. Wesolowski was standing directly behind him. Sgt. Wesolowski placed his foot in the doorway and asked for identification. § 87(2)(b) interacted with officers for the majority of the incident. He asked Sgt. Wesolowski to take his foot away from the door more than five times. PO Kutny issued a summons for § 87(2)(b) and the officers left.

§ 87(2)(b) provided a phone statement to the CCRB on April 21, 2016 § 87(2)(g) (See Board Review, Civilian Statements). § 87(2)(b) was at a neighbor's apartment on the § 87(2) floor to see of guests were ready for his daughter's birthday party. He saw Sgt. Wesolowski and PO Kutny as he approached his apartment door, and when he opened it, Sgt. Wesolowski came up behind him and put his foot in the door, refusing to let § 87(2)(b) close it.

Sgt. Wesolowski and PO Kutny were interviewed at the CCRB on May 5, 2016 (See Board Review, MOS Statements). Sgt. Wesolowski stated as he and PO Kutny were on vertical patrol, descending from the second floor, they observed § 87(2)(b) and an unidentified female in the § 87(2)(b) hallway. § 87(2)(b) had an open container of Coors Original. Sgt. Wesolowski said "Stop, police" and § 87(2)(b) said something along the lines of "No" or "Hell no" before running to her apartment and closing the door behind her. As it was only a violation Sgt. Wesolowski was not going to pursue the matter and the officers were continuing their patrol. However, shortly thereafter, the officers observed § 87(2)(b) approach § 87(2)(b). Sgt. Wesolowski asked to speak to the female inside and § 87(2)(b) stated "That's my wife." § 87(2) told Sgt. Wesolowski "I'll go get her for you" and knocked on the door. § 87(2)(b) opened the door for § 87(2)(b) and Sgt. Wesolowski put his foot in the door. Sgt Wesolowski requested identification from § 87(2)(b) Sgt. Wesolowski stated that § 87(2)(b) asked him to get out of the apartment multiple times and he refused. Sgt. Wesolowski stated he did not believe § 87(2)(b) s request to be a valid request as he was in the middle of an "Enforcement type scenario" and Sgt. Wesolowski would not permit § 87(2)(b) to impede on an enforcement type scenario. Once § 87(2)(b) produced identification, PO Kutny ran a warrant check and prepared a summons for § 87(2)(b).

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PO Kutny was interviewed at the CCRB on May 5, 2016 (See Board Review, MOS Statements). PO Kutny stated that he and Sgt. Wesolowski observed █§ 87(2)(b)█ in the hallway with the open can of Coors and they said "ma'am can we talk to you?" █§ 87(2)(b)█ did not respond and went into her apartment and shut the door. He corroborated that Sgt. Wesolowski put his foot in the door after the door was opened.

Video footage of the incident recorded by █§ 87(2)(b)█ on his cell phone █§ 87(2)(g)████ ██████████████████ shows Sgt. Wesolowski, wearing a red knitted cap, with his foot and elbow in the door as █§ 87(2)(b)█ argues with him for approximately nine minutes and thirty seconds (See Board Review, Video Footage). Sgt. Wesolowski states that he only wants to speak with █§ 87(2)(b)█ and that he has no intention of arresting anyone. █§ 87(2)(b)█ makes fifteen separate requests for Sgt. Wesolowski to get out of his apartment between the 6:00 minute mark and the 9:30 mark. Two short clips from the longer video are included below. The first, from the 5:00 minute mark shows Sgt. Wesolowski's position by the door clearly. In the second clip, which shows the six minute mark of the main incident, █§ 87(2)(b)█ states "You got to come out of my apartment." Sgt. Wesolowski responds "I will come out of your apartment once we get her ID and get her out."

█§ 87(2)(b)█ mp4   █§ 87(2)(b)█ mp4

According to Payton v. New York 445 U.S 573(1980), absent exigent circumstances the threshold of a person's doorway may not be crossed without a warrant (Board Review, Case Law). According to People v. Reese 5 Misc. 3d 1030(A), an officer crossing the threshold of the door constitutes an illegal entry if the said officer does not have sufficient justification (Board Review, Case Law).

§ 87(2)(g)
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§ 87(2)(g)
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Squad:

Investigator: _____ _____ _____
                    Signature   Print   Date

Squad Leader: _____ _____ _____
                   Title/Signature   Print   Date

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Reviewer: _____ _____ _____
                      Title/Signature   Print   Date

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